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DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. FHWA-2012-0037]

RIN 2125-AF45

Truck Size and Weight; Technical Correction

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final rule; technical correction.

SUMMARY: This rule makes a technical correction to the regulations that govern Longer Combination Vehicles (LCV) for the States of Oregon and Nebraska. The amendments contained herein make no substantive changes to FHWA regulations, policies, or procedures.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: John Nicholas, Truck Size and Weight Program Manager, Office of Freight Management and Operations, (202) 366-2317; or Bill Winne, Office of the Chief Counsel, (202) 366-1397. Both are located at 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by accessing the Office of the Federal Register's home page at: <http://www.archives.gov> or the Government Printing Office's Web page at: <http://www.gpoaccess.gov/nara>.

Background

This rulemaking makes technical corrections to the regulations in appendix C of 23 CFR part 658 that govern length of trailers in Oregon and the length of permit duration in Nebraska. The regulations on LCV's were frozen as of July 1, 1991, in accordance with Section 1023 of the Intermodal Surface Transportation Efficiency Act (ISTEA)¹ but a provision was made available in 23 CFR 658.23(f) that requires the FHWA Administrator to review petitions to correct any errors in Appendix C. The States of Oregon and Nebraska have petitioned the Federal Highway Administrator to make corrections to items they found to be incorrect in accordance with 23 CFR 658.23(f), and certified those provisions were in effect as of July 1, 1991.

Oregon Department of Transportation petitioned the FHWA Administrator that the section of Appendix C that describes operational conditions for triple trailers on Oregon's Interstate highways is not accurate. Oregon's law that was in effect at the time Appendix C was adopted, June 1, 1991, required only that the trailers be “. . . reasonably uniform in length,” rather than of “equal length” as stated in Appendix C. The substitution of language, “reasonably uniform in length,” for the current “of equal

¹ Pub. L. 105-240, 105 Stat. 1914, 1991 (Dec. 18, 1991) (codified at 23 U.S.C. 127(d)).

length,” will correct the language and bring it into conformance with Oregon statutes of that time.²

Nebraska Department of Roads petitioned the FHWA Administrator to change 120 days for the maximum duration of a permit, as currently written in Appendix C, to allow 150 days for the maximum permit time as included in Nebraska Statutes in July 1991. The substitution of 150 days for the current 120 days will correct the language and bring it into conformance with Nebraska statutes of that time.³

Rulemaking Analyses and Notice

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The FHWA finds that notice and comment for this rule is unnecessary and contrary to the public interest because it will have no substantive impact, is technical in nature, and relates only to management, organization, procedure, and practice. The amendments to the rule are based upon the explicit language of statutes that were enacted subsequent to the promulgation of the rule. The FHWA does not anticipate receiving meaningful comments. States, local governments, motor carriers, and other transportation stakeholders rely upon the regulations corrected by this action. These corrections will reduce confusion for these entities and should not be unnecessarily delayed. Accordingly, for the reasons listed above, the agencies find good cause under 5 U.S.C. 553(b)(3)(B) to waive notice and opportunity for comment.

² Oregon Vehicle Code 812.210 (1991-1992).

³ Neb. Rev. Stat. 39-6,181 (Cum. Supp. 1986).

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of DOT regulatory policies and procedures. This action complies with Executive Orders 12866 and 13563 to improve regulation. It is anticipated that the economic impact of this rulemaking will be minimal. This rule only makes minor corrections that will not in any way alter the regulatory effect of 23 CFR part 658. Thus, this final rule will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) FHWA has evaluated the effects of this action on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities. This final rule will not make any substantive changes to our regulations or in the way that our regulations affect small entities; it merely corrects technical errors. For this reason, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This rule does not impose any requirements on State, local, or tribal governments, or the private sector and, thus, will not require those entities to expend any funds.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs.

Paperwork Reduction Act

This action does not create any new information collection requirements for which a Paperwork Reduction Act submission to the Office of Management and Budget would be needed under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and concluded that this rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal government; and will not preempt tribal law. There are no requirements set forth in this rule that directly affect one or more Indian tribes. Therefore, a tribal summary impact statement is not required.

Executive Order 12988 (Civil Justice Reform)

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

Under Executive Order 13045, Protection of Children from Environmental Health and Safety Risks, this final rule is not economically significant and does not involve an environmental risk to health and safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13211 (Energy Effects)

This final rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RINs contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grant programs-transportation, Highways and roads, Motor carriers.

Issued on: May 17, 2012

Victor M. Mendez
Administrator

In consideration of the foregoing, 23 CFR part 658 is amended as set forth below.

**PART 658 – TRUCK SIZE AND WEIGHT, ROUTE DESIGNATIONS –
LENGTH, WIDTH AND WEIGHT LIMITATIONS**

1. The authority citation for part 658 continues to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111, 31112, and 31114; sec. 347, Pub. L. 108-7, 117 Stat. 419; sec. 756, Pub L. 109-59, 119 Stat. 1219; sec. 115, Pub. L. 109-115, 119 Stat. 2408; 49 CFR 1.48(b)(19) and (c)(19).

Appendix C to Part 658 [Amended]

2. Amend Appendix C to Part 658 as follows:

A. Under “State: Nebraska, Combination: Truck tractor and 2 trailing unites – LCV” entry by removing the number “120” under “Permit:” in paragraph 4 and adding in its place the number “150”.

B. Under “State: Oregon, Combination: Truck tractor and 3 trailing units – LCV” entry by removing the phrase “equal length” under “Vehicle:” in sentence 1 and adding in its place the phrase “reasonably uniform in length”.

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